

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	
)	NO. CR-05-2096-AAM
Plaintiff,)	
)	ORDER SETTING CONDITIONS OF
v.)	RELEASE FOLLOWING BAIL
)	REVIEW HEARING
WILLIAM ANTHONY KOGER,)	
)	
Defendant.)	

This matter came before this Court for a bail review hearing October 27, 2005. The government was represented by Shawn Anderson, Esq. Defendant was present with counsel, Alex B. Hernandez, Esq.

The government proffered the pre trial service report and recommended continued detention based on risk of flight and danger to the community. Consistent with 18 U.S.C. § 3153(c), the court considered the pretrial services report. This pretrial services report is returned to the confidential files of the United States Probation Office. On review of this order, the pretrial services report will be made a part of this record.

The defendant argued for release on conditions.

This court has taken into account the argument of counsel, evidence and information in the pre trial services report concerning the nature and the circumstances of the offense

1 charged, the weight of the evidence against the defendant, the
2 history and characteristics of the person, including his
3 character, physical and mental condition, family ties, employment,
4 financial resources, length of residence in the community,
5 community ties, past conduct, history relating to alcohol and drug
6 abuse, criminal history, record concerning appearance at court
7 proceedings and the nature and seriousness of the danger to any
8 person or the community that would be posed by the defendant's
9 release.

10 The court finds that the government has not established by a
11 clear preponderance of the evidence that there is an absence of
12 condition or conditions that could be imposed that would
13 reasonably assure this defendant's presence at trial or compliance
14 with court orders and further, that the government has not shown
15 by clear and convincing evidence that there are no conditions that
16 could be imposed which would protect community safety.

17 The Defendant's motion to reopen detention hearing to
18 reconsider conditions of release is **granted**. (Ct. Rec. 34)

19 Upon receipt of the A. O. Form 199C, it is **ORDERED** that the
20 U.S. Marshall shall release defendant to U.S. Probation for
21 transport to a drug inpatient treatment facility when a bed
22 becomes available on November 3, 2005.

23 **IT IS FURTHER ORDERED**, that the release of the defendant is
24 subject to the following conditions:

25 1. The defendant's successful completion of the drug
26 treatment program, whereupon defendant shall be released and shall
27 reside at the residence indicated on the A.O. Form 199C

28 2. The defendant shall not commit any offense in violation

1 of federal, state or local law.

2 3. The defendant shall advise the court and the U. S.
3 attorney in writing before any change in address.

4 4. The defendant shall appear at all proceedings as required
5 and shall surrender for service of any sentence imposed as
6 directed.

7 5. The defendant shall sign and complete form A.O. 199C
8 before being released and shall reside at Candace Perez's
9 residence at the address indicated on the Form 199C.

10 6. The defendant shall remain in the Eastern District of
11 Washington while the case is pending.

12 7. The defendant shall maintain or actively seek
13 employment.

14 8. The defendant shall surrender all firearms in his
15 possession and shall not possess any firearm, destructive device
16 or other dangerous weapon.

17 9. Defendant is further advised, pursuant to 18 U.S.C. §
18 922(n), it is unlawful for any person who is under indictment for
19 a crime punishable by imprisonment for a term exceeding one year
20 to ship or transport in interstate or foreign commerce any firearm
21 or ammunition or receive any firearm or ammunition which has been
22 shipped or transported in interstate or foreign commerce.

23 10. The defendant shall refrain from the excessive use of
24 alcohol, and the use or possession of a narcotic drug and other
25 controlled substances defined in 21 U.S.C. § 802 unless prescribed
26 by a licensed medical practitioner. Based upon this court's
27 finding of probable cause warranting random drug testing in this
28 case, Defendant shall submit to regular urinalysis, or related

1 testing, up to six a month as directed by a United States
2 Probation Officer. The United States Probation Office shall also
3 determine the time and place of testing, but shall only conduct
4 any testing at a public facility.

5 Based on the defendant's acknowledgment of past drug related
6 use and behavior and based on the government's presentation
7 regarding defendant's past drug use and behavior, the court finds
8 that the requisite probable cause has been established to warrant
9 random drug testing in order to insure compliance with the above
10 conditions for release.

11 11. The defendant shall report to the United States
12 Probation Office before or immediately after his release and shall
13 report at such times and in such manner as they direct.

14 **You are advised that a violation of any of the foregoing**
15 **conditions of release may result in the immediate issuance of a**
16 **warrant for your arrest, revocation of your release and**
17 **prosecution for contempt of court which could provide for**
18 **imprisonment, a fine or both. Specifically, you are advised that**
19 **a separate offense is established by the knowing failure to appear**
20 **and that an additional sentence may be imposed for the commission**
21 **of a crime while on this release. In this regard, any sentence**
22 **imposed for these violations is consecutive to any other sentence**
23 **you may incur.**

24 DATED this 27th day of October, 2005.

25
26 S/MICHAEL W. LEAVITT
27 United States Magistrate Judge
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